

❖,	)	
	)	
Plaintiff,	)	No. CIV ❖-❖ PHX SRB
	)	
vs.	)	
	)	<b>JOINT PROPOSED PRETRIAL</b>
	)	<b>ORDER</b>
❖,	)	
	)	
Defendant.	)	
	)	

plaintiff contends that the forklift was defectively designed and manufactured by the defendant and that the defects were a producing cause of his injuries and damages.)

D. **JURY/NON-JURY.** State whether any party has demanded a jury trial of all or any of the issues and, if so, whether each adversary accepts or contests the demand for jury trial.

E. **CONTENTIONS OF THE PARTIES**

With respect to each count of the complaint, counterclaim or cross-claim, and to any defense, affirmative defense, or the rebuttal of a presumption where the burden of proof has shifted, the party having the burden of proof shall list the elements or standards that must be proved in order for the party to prevail on each claim or defense and set forth the relief (e.g. monetary damages), if any, claimed by each party. Citation to relevant and/or controlling legal authority is required.

(e.g., In order to prevail on this products liability case, the plaintiff must prove the following elements. . . .

(e.g., In order to defeat this products liability claim based on the statute of repose, the defendant must prove the following elements . . . .)

F. **STIPULATIONS AND UNDISPUTED FACTS**

G. **PLAINTIFF'S CONTENTIONS OF DISPUTED FACT**

H. **DEFENDANT'S CONTENTIONS OF DISPUTED FACT**

I. **ISSUES OF LAW IN CONTROVERSY**

List briefly any points of law, substantive, evidentiary or procedural, or concerning the measure or kind of relief prayed, which are or may be reasonably expected to be in controversy.

J.     **SEPARATE TRIAL OF ISSUES**

State whether separate trial of any of the issues is advisable and feasible.

K.     **WITNESSES**

Provide a separate list for each party of all witnesses whom the party will call or may call in person or through deposition, except witnesses who may be called only for impeachment or rebuttal. Additionally, the parties shall designate which witnesses (1) shall be called at trial, (2) may be called at trial, and (3) are unlikely to be called at trial. Also provide a very short summary of the intended testimony of the witness. If any additional witnesses come to the attention of counsel prior to the trial, a supplemental list and summary must be prepared, with notice to the opposing side, and filed with the court. This supplemental list must include the reason why the witness' name was not set forth in this **Joint Proposed Pretrial Order**.

L.     **EXPERTS**

Provide a brief summary of each expert's qualifications and proposed testimony and list any stipulations relating to the number or nature of experts to be called by the parties.

M.     **EXHIBITS AND DEPOSITIONS**

Each party must submit with this proposed order a list of numbered exhibits, with a description of each containing sufficient information to identify the exhibit, and indicating whether an objection to its admission is anticipated and the basis for such

objection. Whenever a subject matter will reasonably require itemization, computation, or illustration, counsel shall prepare diagrams, photocopies or other similar exhibits as may be reasonably necessary for a clear presentation of the subject matter.

Those portions of depositions that will be read at trial must be listed by page and line number.

**N. MOTIONS IN LIMINE AND REQUESTED EVIDENTIARY RULINGS**

Set forth the motions in limine which have been filed, whether they have been ruled upon or are scheduled to be ruled upon at the **Final Pretrial Conference**. Briefly state objections to admission of any anticipated testimony with citation to the applicable Federal Rule(s) of Evidence.

**O. PROBABLE LENGTH OF TRIAL**

**P. TRIAL DATE**

Provide available trial dates after the **Final Pretrial Conference** for all trial counsel and witnesses.

**For a Bench Trial**

Q-1. **PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW** shall be filed and served by each party on or before the date set for trial.

**For a Jury Trial**

Q-2. **STIPULATED PROPOSED STATEMENT OF THE CASE, JURY INSTRUCTIONS, VOIR DIRE QUESTIONS, JUROR QUESTIONNAIRES, IF ANY, FORMS OF VERDICT AND TRIAL MEMORANDUM OF LAW** shall be filed with this proposed order. Instructions which are not agreed upon shall include citation to authority and be filed and served on each party by the date of the Pretrial Conference. Brief objections (which shall

not exceed one page per instruction) shall be filed and served by the date of the Pretrial Conference.

R.     **MISCELLANEOUS**

Set forth any other appropriate matters which will aid in the effective presentation or disposition of the action.

S.     **MODIFICATION OF ORDER**

The Court may, in order to prevent manifest injustice or for good cause shown, at the trial of the action or prior thereto upon application of counsel for either party, made in good faith, or upon the motion of the Court, modify the **Final Pretrial Order** upon such conditions as the Court may deem just and proper.

APPROVED AS TO FORM AND CONTENT:

\_\_\_\_\_  
Attorney for Plaintiff

\_\_\_\_\_  
Attorney for Defendant

THIS JOINT PRETRIAL ORDER IS HEREBY APPROVED ON THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
Susan R. Bolton  
United States District Judge

Copies to all counsel of record